

**APPLICANTS:**  
**Daniel & Sharry Sparr**

**REQUEST: Variance to permit an addition within the required side yard setback**

**HEARING DATE: March 21, 2007**

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**

**Case No. 5590**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Daniel Sparr

**CO-APPLICANT:** Sharry Sparr

**LOCATION:** 1205 Prospect Mill Road, Bel Air – Lands of William E. Sample  
Tax Map: 41 / Grid: 2D / Parcel: 544 / Lot: 4  
Third (3<sup>rd</sup>) Election District

**ZONING:** AG / Agricultural

**REQUEST:** A variance pursuant to Section 267-34(C) Table II of the Harford County Code, to permit an addition to maintain a minimum side yard setback of 15 feet (20 foot setback required) in the Agricultural District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

The Applicant, Daniel Sparr, testified that he and his wife are owners of improved property located at 1205 Prospect Mill Road, Bel Air. The lot itself is approximately one-half acre in size, and is improved by a small ranch style home built around 1965. The house has three bedrooms, one bathroom, and is approximately 900 square feet in size. Within the house reside the Applicants and their three children. Mr. and Mrs. Sparr have lived on the subject property since 1990. The property is served by well and private septic system.

Mr. and Mrs. Sparr wish to construct an addition on the northwest side of their home, which would be to the left side of the home as one were facing it. This addition would be approximately 35 feet by 15 feet in dimension, and would add about 525 square feet to the size of the home.

The house and proposed addition will be given a new siding and a new roof will be installed. Accordingly, the addition and the home will have similar design features and will be similar in appearance.

The septic tank and drain field which services the property is located directly behind the home. The house itself is only approximately 21 feet away from the septic system, and County and State Health Department requires a setback of 20 feet. Accordingly, the Applicants cannot locate the addition to the rear of the home without impacting that system.

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On the right side of the home is located the kitchen and the driveway. Mr. Sparr believes that the right side will not be a good location for the addition because of those features. In any event, the existing setback between the home and the property line on the right, or the southwest side, is 33 feet.

Mr. Sparr has talked to his neighbors and none has expressed any opposition. The proposed addition is in keeping with other improvements in the neighborhood. Mr. Sparr notes that his family needs more room, and the proposed addition is constructed primarily to give each of the children a bedroom of his or her own, and to give the family as a whole more living space.

Next for the Harford County Department of Planning and Zoning testified Shane Grimm. Mr. Grimm and the Department believe the property is unique primarily because of the location of the existing septic area. With the septic tank and the septic reserve area being located directly behind the house any improvement is, as a result, precluded in that area. The lot itself is only 99 feet wide, and, accordingly, the proposed addition could not be set on either side of the house without a variance.

The Department of Planning and Zoning Staff Report states, inter alia:

*“The Department find that the subject property is unique. The proposed location of the addition is the only practical area based on the location of the existing improvements. The existing home is small compared to other houses in the area. The proposed addition will be compatible with other structures in the area. The Code permits front yard averaging, therefore a variance to the front yard setback is not necessary. The requested variance will not adversely impact the adjacent properties or the intent of the code.”*

The Department does, however, recommend landscaping between the addition and the nearest adjoining property.

No testimony or evidence was given in opposition.

### **APPLICABLE LAW:**

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

*“Variances.*

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

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- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
  - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval."*

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Since 1990 the Applicants and their three children have resided in a somewhat older, small (at least by more current standards), single family home outside of Bel Air. The home has less than 1,000 square feet of living area, and only one bathroom. Understandably, they wish to construct an addition, one which would increase the size of their living area by almost 60%.

Unfortunately for the Applicants, to construct such an addition on either side of their home would require a variance. The rear is encumbered by both the septic tank and the septic reserve area which makes it virtually impossible, and certainly highly impractical, to locate such an addition in that area.

The Applicants further presented evidence that the exterior of the house would have new siding installed at the time the addition was constructed so that the home and addition would have a uniform exterior appearance.

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There were no objections noted by the neighbors, and the Harford County Department of Planning and Zoning has recommended approval, also concluding that the property has unusual features and that as a result the Applicants suffer a practical difficulty because of the impact of the Harford County Development Regulations upon them.

It is accordingly found that the Applicants suffer a practical difficulty caused by the unusual features of their property. Those unusual features act to prohibit the construction of a relatively modest addition anywhere on their property without the requested variance. The variance will allow the Applicants an improvement enjoyed by many others throughout Harford County, and one which would be totally in keeping with the neighborhood. There will be no adverse impact on any adjoining property, and, in fact, the proposed improvement should benefit the neighborhood.

It is further found that the relief requested – a variance of 5 feet – is the minimum relief necessary to alleviate this difficulty.

### **CONCLUSION:**

Accordingly, it is recommended that the requested variance be granted, subject to the following:

1. The Applicants shall obtain all necessary permits and inspections for the addition.
2. The Applicants shall provide landscaping between the addition and the property line. The Applicants shall submit a landscaping plan to the Department of Planning and Zoning for review and approval.

Date: March 30, 2007

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on APRIL 27, 2007.**